IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 7022 of 2004

Between:

K. Gnaneswar Rao, S/o Samba Siva Rao, R/o Piduguralla, Guntur District.

..... PETITIONER

AND

1 The Station House Officer, Pattabhipuram Police Station (L&O), Guntur District.
2 The Superintendent of Police, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or orders more particularly one in the nature of writ of Mandamus declaring the action of the Respondent Police herein as illegal, arbitrary and violation of Right to life and personal liberty.

Counsel for the Petitioner: MR.V.RAGHUNATH

Counsel for the Respondents: GP FOR HOME

The Court made the following:

ORDER:

The petitioner seeks a writ of Mandamus declaring the alleged action on the part of the respondents as arbitrary and illegal.

2. The petitioner states that he is carrying on a small business and eking out his livelihood. On 15.02.2002, one criminal case was registered as Crime No.25 of 2002 on the file of P.S. Pattabhipuram under Sections 420, 468 & 471 IPC against one Gangadhar Rao and others on the allegation of misappropriation of public money. During the investigation of the said crime, the petitioner was called to the Police Station by the respondents. When the petitioner raised an objection in summoning him to the Police Station without there being any justifiable reason, the second respondent developed grudge against him. It is alleged that the second respondent, with a view to falsely implicate the petitioner in a criminal case on the basis of an alleged confessional statement of the accused in Crime No.25 of 2002, started harassing the petitioner and his family members. The petitioner alleges that in the confessional statement of the said Gangadhar Rao, dated 15.03.2004, there was no reference about him. But, subsequently another confessional statement was prepared with an intention to implicate the petitioner. The allegation that the accused in the said crime has given money to the petitioner as hand loan, is absolutely false. On the basis of the alleged second confessional statement, the Police have forcibly taken the petitioner to the Police Station and threatened him and his family members to pay the money. Under threat to his life, the petitioner was constrained to pay a sum of Rs.2,50,000/- to the Police and he was also forcibly

made to execute a promissory note for a sum of Rs.2,00,000/- in the name of the accused. When he refused to execute, the then Sub Inspector of Police of the first respondent Station, Mr.Raghava Rao, and Constable Srinivasa Murthy, beat the petitioner severely and made him to execute the promissory note. The petitioner states that all the allegations made against him are false and baseless, and that without there being any justifiable reason, the respondent Police Officials are constantly harassing him and his family members. He also states that in spite of the fact that he approached the second respondent-Superintendent of Police, Guntur District, expressing his grievance, no action was taken and on the other hand, the pressure and threat to his life are continuing, hence the present writ petition.

3. On behalf of the respondents, Inspector of Police, APSRTC Vigilance, Guntur, who is also the Investigation Officer in Crime No.25 of 2002 of Pattabhipuram, L & O, P.S., Guntur town, filed a counter affidavit denying all the allegations made by the petitioner. He stated that during the course of investigation in Crime No.25 of 2002, his predecessor Investigating Officer recorded the confessional statement of the accused Gangadhara Rao. It is further stated that in the second confessional statement dated 18.03.2002, the said accused specifically stated that he has lent the misappropriated money to nine persons, including the petitioner herein. He conducted enquiries in respect of the allegations made by the petitioner against the Police in the affidavit filed in support of the writ petition and found that all the allegations are incorrect. It is also stated that no amount was recovered by the Police in the above said offence from the accused or any other persons and that the allegations of the petitioner that the Police are threatening him and his family members, is also incorrect and therefore, there are no *bona fides* in the writ petition.

4. That apart, in pursuance of the orders of this Court dated 05.07.2004 directing the Superintendent of Police to conduct an enquiry into the allegations made by the petitioner, the Superintendent of Police, Guntur, submitted his report dated

23.07.2004 stating that he conducted a detailed enquiry into all the allegations and it is found that the same are not true. He also stated in his report that though in the first confessional statement, the accused in Crime No.25 of 2002 did not disclose the name of the petitioner, but in the second confessional statement dated 18.03.2002, the accused sated that he has lent misappropriated money to nine persons, including the petitioner. He also clearly stated that all other allegations made by the petitioner are found to be incorrect as per his enquiry. He further stated that whereas the alleged incident took place in the month of March, 2002, the petitioner never made any complaint to anybody and the present writ petition is filed on 12.04.2004 which is only an after-thought.

5. In the light of the unrebutted averments in the counter affidavit filed by the respondents and particularly in view the report submitted by the Superintendent of Police, Guntur District, supporting the version of the respondents as reflected in the counter affidavit, the allegations in the writ petition are unfounded.

6. Accordingly, the writ petition is dismissed. No costs.

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05.08.2004

VGB

To

1 The Station House Officer, Pattabhipuram Police Station (L&O),
Guntur District.
2 The Superintendent of Police, Guntur District.

3 2CCs to the Government Pleader for Home, High Court Buildings, Hyderabad (OUT)

4 2CD copies